

NOTE: CHANGES MADE BY THE COURT

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

THE BOEING COMPANY, <i>et al.</i> ,)	CASE NO. CV13-00730-AB (AJWx)
Plaintiffs,)	
vs.)	JUDGMENT AS TO PLAINTIFFS
)	BREACH OF CONTRACT CLAIMS
KB YUZHNOYE, <i>et al.</i> ,)	
)	Judge: Hon. André Birotte Jr.
Defendants.)	
)	

1 Plaintiffs The Boeing Company (“Boeing”) and Boeing Commercial Space
2 Company (“BCSC”) filed a Motion for Summary Judgment on their claims against
3 Defendant S.P. Korolev Rocket and Space Corporation, Energia (“RSC Energia”), and
4 against Defendant KB Yuzhnoye (“Yuzhnoye”) and Defendant PO Yuzhnoye
5 Mashinostroitelny Zavod (“Yuzhmash”) for breach of the Creation Agreement and the
6 BCSC Loan Guarantees. A hearing on the Motion was held before the Court on June
7 29, 2015. Having fully considered the arguments, issues, and evidence presented, and
8 in accordance with the Order Granting Plaintiffs’ Motion for Summary Judgment,
9 dated September 28, 2015 (Dkt. No. 750),

10 **IT IS HEREBY ORDERED AND ADJUDGED THAT**

- 11 1. Judgment is entered in favor of Plaintiff Boeing on its claim for breach of
12 contract (Creation Agreement) against Defendant RSC Energia;
- 13 a. Plaintiff Boeing shall recover from Defendant RSC Energia the
14 principal amount of USD \$112,270,615.71—to be reduced by an
15 amount of USD \$928,687.29, in full and final satisfaction of: RSC
16 Energia’s counterclaim (Count IV) to recover the costs awarded to it
17 in the Swedish arbitration and prejudgment interest on those costs;
18 RSC Energia’s existing or future claims for costs in the proceedings
19 in the Swedish Court of Appeals and/or the Swedish Supreme Court
20 (the “Swedish Appeals”) relating to the Swedish arbitration and any
21 prejudgment interest on those claims; and any other relief sought by
22 Energia in connection with Count IV or the Swedish Appeals—for a
23 total principal amount in Boeing’s favor on its claim for breach of
24 the Creation Agreement by Energia of USD \$111,341,928.42.
- 25 b. Plaintiff Boeing shall recover from Defendant RSC Energia
26 prejudgment interest on its claim for breach of the Creation
27 Agreement from September 21, 2009, up to and including October
28 15, 2015, in the additional amount of USD \$54,050,615.56;

- 1 c. Plaintiff Boeing shall recover from Defendant RSC Energia
2 prejudgment interest on its claim for breach of the Creation
3 Agreement in the additional amount of USD \$24,607.26 per diem
4 from October 16, 2015, up to and including the date the Judgment is
5 entered;
- 6 d. With respect to Plaintiff Boeing and Defendant RSC Energia,
7 Plaintiff Boeing is the prevailing party for purposes of an award of
8 costs; and
- 9 e. Post-judgment interest shall apply to the total judgment awarded in
10 favor of Plaintiff Boeing against Defendant RSC Energia on
11 Boeing's claim for breach of the Creation Agreement (*i.e.*, USD
12 \$165,392,543.98, plus the amounts provided under Paragraph
13 No. 1.c above, and plus any costs and/or attorneys' fees
14 subsequently awarded), as provided by 28 U.S.C. § 1961, as of the
15 date the Judgement is entered.
- 16 2. Judgment is entered in favor of Plaintiff BCSC on its claim for breach of
17 contract (BCSC Loan Guarantee) against Defendant RSC Energia;
- 18 a. Plaintiff BCSC shall recover from Defendant RSC Energia on its
19 claim for breach of the BCSC Loan Guarantee the principal amount
20 of USD \$130,764,438.25;
- 21 b. Plaintiff BCSC shall recover from Defendant RSC Energia
22 prejudgment interest¹ on its claim for breach of the BCSC Loan
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25 ¹ In the Parties' respective proposed judgment briefs, there is a dispute as to whether a simple
26 interest rate or a compound interest rate should be applied to the prejudgment interest rate of
27 Plaintiff BCSC's claim. (Dkt. No. 779, Ex. 1, pp. 8-9; *cf.* Dkt. No. 780, pp. 5-6.) The Parties do
28 not dispute that the simple interest rate here is 3.25% per annum.

(Continued...)

- 1 Guarantee from August 5, 2009, up to and including October 15,
 2 2015, in the additional amount of USD **\$26,337,390.90**;
- 3 c. Plaintiff BCSC shall recover from Defendant RSC Energia
 4 prejudgment interest on its claim for breach of the BCSC Loan
 5 Guarantee in the additional amount of USD **\$11,643.41** per diem
 6 from October 16, 2015, up to and including the date the Judgment is
 7 entered;
- 8 d. With respect to Plaintiff BCSC and Defendant RSC Energia,
 9 Plaintiff BCSC is the prevailing party for purposes of an award of
 10 costs; and
- 11 e. Post-judgment interest shall apply to the total judgment awarded in
 12 favor of Plaintiff BCSC against Defendant RSC Energia (*i.e.*, USD
 13 **\$157,101,829.15**, plus the amounts provided under Paragraph No.
 14 2.c above, and plus any costs and/or attorneys' fees subsequently
 15 awarded), as provided by 28 U.S.C. § 1961, as of the date the
 16 Judgement is entered.
- 17 3. Judgment is entered in favor of Plaintiff Boeing on its claim for breach of
 18 contract (Creation Agreement) against Defendants Yuzhnoye and Yuzhmash;
- 19 a. Plaintiff Boeing shall recover from Defendants Yuzhnoye and
 20 Yuzhmash on its claim for breach of the Creation Agreement the

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The BCSC Loan Guaranties is governed under English law. (Dkt. No. 750, pp. 19-20.) As
 24 stated in the David Wolfson Declaration (Dkt. No. 752-4), English law allows a successful
 25 claimant "to recover prejudgment interest on any sums found due to him or her under a
 26 judgment of the court." (*Id.* at ¶ 2.) In awarding prejudgment interest, "[t]he court may
 27 order simple interest under Section 35A of the Senior Courts Act 1981 or an appropriate
 28 interest rate (including [a semi-annual] compound interest) under the common law." (*Id.* at ¶
 16.) Accordingly, "it is for the US court to determine the applicable pre-judgment interest
 rate" pursuant to English law. (*Id.* at ¶ 20.)

(Continued...)

1 principal amount of USD \$67,362,369.42—to be reduced by an
2 amount of USD \$610,661.76, in full and final satisfaction of:
3 Yuzhnoye and Yuzhmash’s counterclaim (Count IV) to recover the
4 costs awarded to them in the Swedish arbitration and prejudgment
5 interest on those costs; Yuzhnoye’s and/or Yuzhmash’s existing or
6 future claims for costs in the proceedings in the Swedish Court of
7 Appeals and/or the Swedish Supreme Court (the “Swedish
8 Appeals”) relating to the Swedish arbitration and any prejudgment
9 interest on those claims; and any other relief sought by Yuzhnoye
10 and/or Yuzhmash in connection with Count IV or the Swedish
11 Appeals—for a total principal amount in Boeing’s favor on its claim
12 for breach of the Creation Agreement against Yuzhnoye and
13 Yuzhmash of USD \$66,751,707.66.

- 14 b. Plaintiff Boeing shall recover from Defendants Yuzhnoye and
15 Yuzhmash on its claim for breach of the Creation Agreement
16 prejudgment interest from September 21, 2009, up to and including
17 October 15, 2015, in the additional amount of USD \$32,430,369.33;
18 c. Plaintiff Boeing shall recover from Defendants Yuzhnoye and
19 Yuzhmash prejudgment interest on its claim for breach of the
20 Creation Agreement in the additional amount of USD \$14,764.35
21 per diem from October 16, 2015, up to and including the date the
22 Judgment is entered;
23 d. With respect to Plaintiff Boeing and Defendants Yuzhnoye and
24 Yuzhmash, Plaintiff Boeing is the prevailing party for purposes of
25 an award of costs;

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27 **Given the circumstances of this matter, the Court concludes that a simple interest of 3.25%**
28 **per annum (*i.e.*, USD \$11,643.41 per diem) is appropriate. The re-calculation for the**
prejudgment interest is adjusted accordingly.

- 1 e. Post-judgment interest shall apply to the total judgment awarded in
2 favor of Plaintiff Boeing against Defendants Yuzhnoye and
3 Yuzhmash (*i.e.*, USD \$99,182,076.99, plus the amounts provided
4 under Paragraph No. 3.c above, and plus any costs and/or attorneys'
5 fees subsequently awarded), as provided by 28 U.S.C. § 1961, as of
6 the date the Judgment is entered; and
- 7 f. Defendants Yuzhnoye and Yuzhmash shall be jointly and severally
8 liable for all amounts awarded in favor of Plaintiff Boeing and
9 against Defendants Yuzhnoye and Yuzhmash under Paragraph No. 3
10 of the Judgment.
- 11 4. Judgment is entered in favor of Plaintiff BCSC on its claim for breach of
12 contract (BCSC Loan Guarantee) against Defendants Yuzhnoye and
13 Yuzhmash;
- 14 a. Plaintiff BCSC shall recover from Defendants Yuzhnoye and
15 Yuzhmash on its claim for breach of the BCSC Loan Guarantee the
16 principal amount of USD \$78,458,662.00;
- 17 b. Plaintiff BCSC shall recover from Defendants Yuzhnoye and
18 Yuzhmash on its claim for breach of the BCSC Loan Guarantee
19 prejudgment interest² from August 5, 2009, up to and including
20 October 15, 2015, in the additional amount of USD **\$15,802,434.35**;
- 21 c. Plaintiff BCSC shall recover from Defendants Yuzhnoye and
22 Yuzhmash on its claim for breach of the BCSC Loan Guarantee
23 prejudgment interest in the additional amount of USD **\$6,986.05** per
24 diem from October 16, 2015, up to and including the date the
25 Judgment is entered;
- 26 d. With respect to Plaintiff BCSC and Defendants Yuzhnoye and

27 ² See *supra* n. 1.
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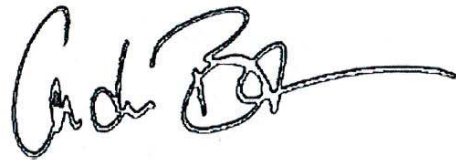
1 Yuzhmash, Plaintiff BCSC is the prevailing party for purposes of an
2 award of costs;

- 3 e. Post-judgment interest shall apply to the total judgment awarded in
4 favor of Plaintiff BCSC against Defendants Yuzhnoye and
5 Yuzhmash (*i.e.*, USD \$94,261,096.35, plus the amounts provided
6 under No. 4.c above, and plus any costs and/or attorneys' fees
7 subsequently awarded), as provided by 28 U.S.C. § 1961, as of the
8 date the Judgement is entered; and
9 f. Defendants Yuzhnoye and Yuzhmash shall be jointly and severally
10 liable for all amounts awarded in favor of Plaintiff BCSC and
11 against Defendants Yuzhnoye and Yuzhmash under Paragraph No. 4
12 of the Judgment.

- 13 5. The Court has not yet resolved Plaintiff Boeing's and Plaintiff BCSC's
14 claims that Energia Overseas, LLC and Energia Limited, Ltd. are alter
15 egos of RSC Energia. Nevertheless, in accordance with Federal Rule of
16 Civil Procedure 54(b), this Court expressly determines that there is no just
17 reason to delay entry of this Final Judgment as to Plaintiffs' claims for
18 breach of the Creation Agreement and the BCSC Loan Guarantees against
19 Defendant RSC Energia and Defendants Yuzhnoye and Yuzhmash (and all
20 defenses thereto).

21 **IT IS SO ORDERED AND ADJUDGED.**

22 DATED: May 12, 2016

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25 Hon. André Birotte Jr.
26 United States District Court Judge
27 Central District of California
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I hereby attest and certify on 4-27-2018
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
Derek Davis
DEPUTY CLERK



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